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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,036	10/14/2005	Michel Pompei	033339/293148	1359
826 7590 08/27/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER PHILLIPS, FORREST M	
			ART UNIT 2837	PAPER NUMBER
			MAIL DATE 08/27/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,036

Applicant(s)

POMPEI, MICHEL

Examiner

FORREST M. PHILLIPS

Art Unit

2837

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2, 5 and 7 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Geissbuhler (US6006484) in view of Johnson (US7063184) and Herreman (US20020134615).

With respect to claim 1 Geissbuhler discloses an acoustic panel comprising:

First (18 in figure 2a) and second walls (20 in figure 2a) between which a sound absorber is disposed (36 in figure 2a) said panel comprising successively, said first wall, a backing plate (inner portion of 20 held on by the staple) carrying spacer elements (26 in figure 2a and figure 1 and 10 in figure 1) that are distributed in at least one dimension between the backing plate and the sound absorber and that create an air gap between the absorber and the backing plate.

Geissbuhler does not disclose a plate of viscoelastic material.

Johnson discloses an acoustic panel comprising: a sound absorber (30 in figure 20) and a plate of viscoelastic material (130 in figure 20) (Column 11 line 65- Column 12 line 8).

Herreman is relied on only to teach that vinyl structures are viscoelastic in nature and that viscoelastic materials are advantageous in the blocking of sound transmission (see paragraphs 32-36)

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Johnson and Herreman to provide a viscous-elastic plate with the acoustic panel of Geissbuhler.

The motivation for doing so would be to block the sound from traveling out of the panel (see abstract of Johnson).

Regarding the placement of the Viscoelastic plate one of ordinary skill would have understood from the teachings of Johnson to provide the viscoelastic plate on the opposite side of the acoustic absorber to reflect the sound back into the absorber. One of ordinary skill would have selected the position between the first wall and the spacers to retain the air space of Geissbuhler.

With respect to claim 2 Geissbuhler further discloses wherein the spacers form a two dimensional array (see figure 2a).

With respect to claim 5 Geissbuhler further discloses wherein the array comprises studs distributed in said two dimensions (see figure 2a).

With respect to claim 7 Geissbuhler further discloses wherein the spacer elements are reinforcing elements secured to the backing plate. The studs of figure 2a are reinforcing the plate from moving in either direction.

2. Claims 3, and 8-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Geissbuhler (US6006484) in view of Johnson (US7063184) and Herreman (US20020134615) as applied to claim 1 above, and further in view of Paisley (US4102089).

With respect to claim 3 Geissbuhler as modified discloses the invention as claimed except wherein said array comprises a grid, a honeycomb or embossing.

Paisley discloses the use of embossing to form spacing elements (45 in figure 3).

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Paisley to use embossing of a metal plate to form spacing elements with the spacers of Geissbuhler as modified in order to minimize parts and thus assembly and materials costs.

With respect to claim 8 Geissbuhler further discloses wherein said reinforcing elements are in the form of studs (see figure 2a). It would have been obvious to emboss stud like projections as supporting means as taught by Paisley.

With respect to claim 9 Paisley further discloses wherein a backing plate is embossed to form spacing elements which will necessarily stiffen the backing plate.

3. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geissbuhler (US6006484) in view of Johnson (US7063184), Herreman

(US20020134615) and Paisley (US4102089) as applied to claim 3 above, and further in view of Nelson (US4989688).

With respect to claim 4 Geissbuhler as modified discloses the invention as claimed except wherein the grid honeycomb or the embossing constitutes a net with the sound absorber being placed inside the net.

Nelson discloses a net with the sound absorber being placed inside the net (213 is a confinement layer seen in figures as a net).

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Nelson to use a net in order to confine the sound absorber with the panel of Geissbuhler to insure the sound absorber remained in the proper position and compressed to the desired thickness.

With respect to claim 6 Nelson discloses the use of adhesives in securing the sound absorbing material in place (Column 7 lines 10-30). It would have been obvious to one of ordinary skill in the art to secure the sound absorbing material with a self adhesive film as self adhesive films are a known method of adhering and securing sound absorbing material is known to be necessary in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FORREST M. PHILLIPS whose telephone number is (571)272-9020. The examiner can normally be reached on Monday through Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 5712722227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. M. P./
Examiner, Art Unit 2837
/Walter Benson/
Supervisory Patent Examiner, Art Unit 2837